

Copy of Declaration is  
intended for the attached  
application submitted herewith

# DECLARATION FOR PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

## NETWORK APPARATUS AND METHOD FOR PREVIEW OF MUSIC PRODUCTS AND COMPILATION OF MARKET DATA

the specification of which (check one) ☐ is attached hereto or ☒ as filed on October 31, 1996 as Application Serial No. 08/741,915 and was amended on \_\_\_\_\_ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose all information which is material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)

Priority Claimed  
Yes No

Number	Country	Day/Month/Year Filed

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose all information which is material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

<u>08/668,327</u>	<u>06/26/96</u>	<u>Pending</u>
Application Ser. No.	Filing Date	Status: Patented, Pending, Abandoned
<u>08/282,153</u>	<u>07/28/94</u>	<u>Abandoned</u>
Application Ser. No.	Filing Date	Status: Patented, Pending, Abandoned
<u>08/035,661</u>	<u>03/23/93</u>	<u>Abandoned</u>
Application Ser. No.	Filing Date	Status: Patented, Pending, Abandoned
<u>07/957,444</u>	<u>10/06/92</u>	<u>Patented (U.S. Patent No. 5,237,157 Issued: 08/17/93)</u>
Application Ser. No.	Filing Date	Status: Patented, Pending, Abandoned
<u>07/582,253</u>	<u>09/13/90</u>	<u>Abandoned</u>
Application Ser. No.	Filing Date	Status: Patented, Pending, Abandoned

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first joint inventor, Joshua D. Kaplan

Inventor's Signature: [Signature]

Date: 12/5/96

Residence 2881 Buena Vista Way, Berkeley, California 94708

Citizenship U.S.

Post Office Address \_\_\_\_\_

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Joshua D. Kaplan

Serial No. 08/741,915

Filed: October 31, 1996

For: **NETWORK APPARATUS AND  
METHOD FOR PREVIEW OF  
MUSIC PRODUCTS AND  
COMPILATION OF MARKET  
DATA**

Group Art Unit: 2761

Examiner: E. Civan

**SUPPLEMENTAL DECLARATION OF  
JOSHUA KAPLAN**

**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that this correspondence is being transmitted  
by facsimile to the Asst. Commissioner of Patents,  
Washington, D.C. 20231 via facsimile number (703) 308-  
4426 on December 11, 1998.

By: 

Caroline Pfahl

Asst. Commissioner for Patents  
Washington, D.C. 20231

Sir:

Further to my Declaration dated October 8, 1998 in reference to the above-identified application (the "'915 application"), I, Joshua Kaplan, declare that all statements made herein made of my own knowledge are true and that statements made on information and belief are believed to be true, as follows:

1. Prior to December 1995, the invention claimed in the '915 application had not been embodied in an apparatus that worked for its intended purpose or performed the steps of the claimed methods. The invention was not implemented in any apparatus or process that contained each and every element of the claimed invention, or that otherwise constituted an actual reduction to practice of the claimed invention.

2. Prior to December 1995, I had not prepared or provided to any person at the Internet Shopping Network, or any other manufacturer, programmer, or third party any description or drawing of sufficient specificity to enable a person skilled in the art to practice the invention claimed in the '915 application.

3. Prior to December 1995, I had not prepared or provided to any person at the Internet Shopping Network, or any other manufacturer, programmer, or third party any description or drawing that included all of the key features or elements of the invention claimed in the '915 application.

4. Prior to December 1995, I did not consider the invention claimed in the '915 application to be ready for patenting, due, in part, to the fact that substantial technical problems encountered during the period of April 1995 through December 1995 prevented any implementation from performing to minimum required standards, and prevented documentation of an enabling embodiment of the claimed invention.

5. I have been warned that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. § 1001) and may jeopardize the validity of the application or any patent issuing thereon.

Executed this 10<sup>th</sup> day of December 1998 at San Francisco, California.

  
Joshua Kaplan

DERGOSITS & NOAH LLP  
Michael E. Dergosits  
Reg. No. 31,243  
(415) 705-6377

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT

In re Application of

Joshua D. Kaplan

Serial No. 08/741,915

Filed: October 31, 1996

For: **NETWORK APPARATUS AND  
METHOD FOR PREVIEW OF  
MUSIC PRODUCTS AND  
COMPILATION OF MARKET  
DATA**

Group Art Unit: 2761

Examiner: F. Civan

**DECLARATION OF JOSHUA KAPLAN**

Asst. Commissioner for Patents  
Washington, D.C. 20231

Sir:

I, Joshua Kaplan, declare that all statements made herein made of my own knowledge are true and that statements made on information and belief are believed to be true, as follows:

1. I am the President of the intouch Group, Inc., ("intouch") a California corporation and assignee of the above-identified patent application. I have continuously held the title of President of intouch since 1990. I am the named inventor of the above-captioned patent application.

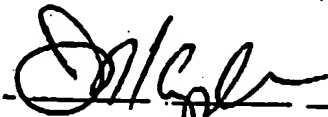
2. I have been advised that the Patent Office has located an April 11, 1995 publication, referred to as the ISN publication, that indicates that the intouch music previewing Internet site iStation OnLine would be available on the Internet Shopping Network beginning in June 1995. The iStation OnLine service was not publicly available on June 1, 1995, nor was it publicly available anytime before October 31, 1995.

3. The internet web site capable of delivering music samples in accordance with the methodology described in my patent application Serial No. 08/941,915 (" '915 application") was not operational until late 1995 or very early 1996. During the period of April 1995 through December 1995, substantial technical problems concerning the web site were identified, solved and implemented. It was only after all of these problems had been solved that intouch had an operational system that would perform according to the necessary specifications, and that would provide a functional system with many of the features described in the '915 application.

BEST AVAILABLE COPY

4. I have been warned that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. § 1001) and may jeopardize the validity of the application or any patent issuing thereon.

Executed this 8 day of October 1998 at San Francisco, California.

  
Joshua Kaplan

DERGOSITS & NOAH LLP  
Michael E. Dergosits  
Reg. No. 31,243  
(415) 705-6377